



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/623,695

07/21/2003

David S. Benco

LUTZ 2 00217

6505

7590

09/20/2006

Richard J. Minnich
Fay, Sharpe, Fagan, Minnich & McKee, LLP
Seventh Floor
1100 Superior Avenue
Cleveland, OH 44114

EXAMINER

PHAN, HUY Q

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/623,695	Applicant(s) BENCO ET AL.	
	Examiner Huy Q. Phan	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-17 and 21 is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 18 is/are rejected.
- 7) ☒ Claim(s) 2, 19, and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to Amendment filed on date: 08/30/2006.
Claims 1-21 are still pending.

Response to Arguments

2. Applicant's arguments, see REMARKS, with respect to claim 21, have been fully considered and are persuasive.
3. Applicant's arguments with respect to claims 1, 3-10 and 18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

I) Claims 1, 4, 9, 10 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (herein after AAPA) in view of Gentry (US-6,453,162 previously cited).

Regarding claim 1, AAPA discloses a method for creating a temporary service plan for a subscriber of a wireless service provider when the subscriber

Art Unit: 2617

currently has a normal service plan with the wireless service provider (see the instant specification, paragraphs [0002]-[0003]). The method includes receiving a request either by calling or visiting a store to create the temporary service plan from a user ([0003]). The AAPA teaches changing the normal service plan to a temporary service plan thus retrieving the subscriber's old service plan, modifying the service plan according to the user's request, and storing the temporary service plan in the subscriber database. The AAPA does not disclose conducting this change with the use of an automated change selection menu. However, Gentry discloses a method of setting up a temporary service plan using an automated selection menu such as the dates during which the temporary service plan is in activation (col. 5, lines 20-42 and col. 6, lines 55-65; for details see cols. 5-7). Therefore, it would be obvious to one of ordinary skill in the art to apply Gentry's automated selection menu technique to the AAPA in order to "provision a wireless component without time-consuming interaction with an employee of the service provider, allows the service provider to generate a user-friendly interface to inform subscribers of services and their cost, and reduces service provider labor costs associated with provisioning a wireless component" (see col. 2).

Regarding claim 4, AAPA and Gentry disclose the method as set forth in claim 1. Gentry further discloses verifying the user has authority associated with the subscriber to create the temporary service plan ("usercode and password" see col. 5, line 35-42).

Regarding claim 9, AAPA and Gentry disclose the method as set forth in claim 1. Gentry further discloses wherein the change selection menu provided to the user includes a portion for selection of a quantity of airtime associated with a predetermined period of calendar time (col. 3, lines 1-12 and col. 6, lines 32-55).

Regarding claim 10, AAPA and Gentry disclose the method as set forth in claim 1. Gentry further discloses wherein the change selection menu provided to the user includes a portion for selection of a date for expiration of the temporary service plan (col. 3, lines 1-12 and col. 6, lines 32-55).

Regarding claim 18, AAPA discloses a method for processing a call from a mobile station in a wireless network when the call is associated with a subscriber having a normal service plan with a wireless service provider associated with the wireless network (see the instant specification, paragraphs [0002]-[0003]), the method including the steps: a) receiving the call from the mobile station ([0030]). But, AAPA does not particularly show the step of: b) determining if the subscriber has a temporary service plan that is in effect with the wireless service provider; and c) if a temporary service plan is in effect, continuing to process the call and determining charges for the call according to the temporary service plan. However, Gentry teaches the step of: b) determining if the subscriber has a temporary service plan (described as "The subscriber can enter the dates during which he will be in the remote location, provide billing information, such as a

Art Unit: 2617

credit card number, and provide whatever additional information the service provider needs to provide the subscriber with a local number during the specified period of time", see col. 6) that is in effect with the wireless service provider (col. 7, lines 14-33, for details see cols. 5-8); and c) if a temporary service plan is in effect, continuing to process the call (col. 7, lines 14-33, for details see cols. 5-8) and determining charges for the call according to the temporary service plan (col. 6, lines 32-55); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry as taught by AAPA in order to "provision a wireless component without time-consuming interaction with an employee of the service provider, allows the service provider to generate a user-friendly interface to inform subscribers of services and their cost, and reduces service provider labor costs associated with provisioning a wireless component" (see col. 2).

II) Claims 3, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA and Gentry in view of Rosenberg (US-2003/0013434 previously cited).

Regarding claim 3, Gentry discloses the method as set forth in claim 1 wherein the user transmits the received request to create the temporary service plan associated with the subscriber's normal service plan (col. 3, lines 1-16). But, Gentry does not particularly show using a mobile station to transmit the request. However in analogous art, Rosenberg teaches using a mobile station to transmit the request ([0044] and [0024]); therefore, it would have been obvious to one of

Art Unit: 2617

ordinary skill in the art at the time the invention was made to modify the method of Gentry as taught by Rosenberg in order to "enable a wireless device user to select a wireless service plan on a web site, provide device-specific, personal, and financial information on the web site, and receive an activation code to automatically activate the wireless service plan for use on the wireless device" [0015].

Regarding claim 5, AAPA and Gentry disclose the method as set forth in claim 1. Gentry further discloses wherein the request from the user is via a call to one of a switching center, a peripheral device and an auxiliary component (col. 2, lines 1-12). But, Gentry does not particularly show wherein the request from the user is via a call to one of a switching center, a peripheral device and an auxiliary component associated with the wireless service provider from a telephone device. However, Rosenberg teaches wherein the request from the user is via a call to one of a switching center, a peripheral device and an auxiliary component ([0051]-[0053]) associated with the wireless service provider (fig. 2, 34) from a telephone device (fig. 1, 30e); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry as taught by Rosenberg in order "for wireless service providers to automatically activate wireless services for wireless device users without requiring human interaction or time delays in activating the services" [0012].

Art Unit: 2617

Regarding claim 7, AAPA, Gentry and Rosenberg disclose the method as set forth in claim 5. Gentry further discloses wherein the change selection menu provided to the user includes an interactive graphical display portion (col. 2, line 63-col. 3, line 5; also see col. 5, lines 43-67).

III) Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA, Gentry and Rosenberg in view of Son (US-6,212,408 previously cited).

Regarding claim 6, Gentry and Rosenberg disclose the method as set forth in claim 5, except particularly showing wherein the change selection menu provided to the user includes an automated interactive audio portion. However, Son teaches wherein the change selection menu provided to the user includes an automated interactive audio portion (col. 15, lines 50-58); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry and Rosenberg as taught by Son for the purpose of offering the user the hands-free capabilities by allowing the voice in making the selection.

IV) Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gentry in view of Hymel (US-2001/0180648 previously cited).

Regarding claim 8, AAPA and Gentry discloses the method as set forth in claim 1, except wherein the change selection menu provided to the user includes a portion for selection between a nationwide plan and a local plan. However, Hymel teaches wherein the change selection menu provided to the user includes

Art Unit: 2617

a portion for selection between a nationwide plan (inherently as "long distant phone call service") and a local plan [0029]; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry as taught by Hymel for the purpose of providing the full range of services with the most cost effectiveness.

Allowable Subject Matter

5. Claims 2, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reason for the indication of allowance:

Claims 2, 19 and 20 are allowed with the same reasons set forth in the Office Action mailed 5/25/2006 (pages 10-11).

Reasons for Allowance

6. Claims 11-17 and 21 are allowed.

The following is a statement of reason for the indication of allowance:

Applicant's arguments, see REMARKS (page 11, lines 7-10), filed on 04/12/2006, with respect to the rejection(s) of claim(s) 11 have been fully considered and are persuasive.

Applicant's arguments, see REMARKS (pages 7-8), filed on 08/30/2006, with respect to the rejection(s) of claim(s) 21 have been fully considered and are persuasive.

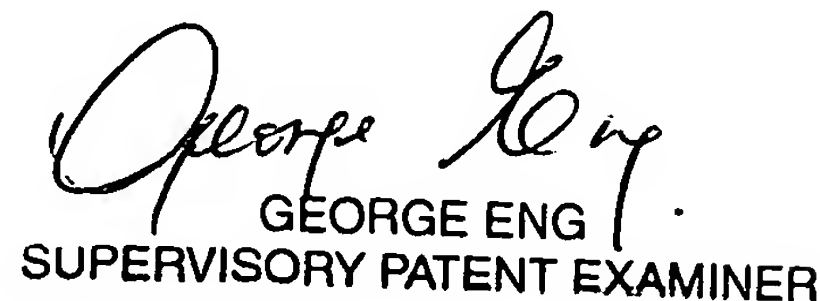
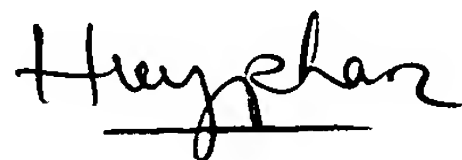
Art Unit: 2617

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Q Phan whose telephone number is 571-272-7924. The examiner can normally be reached on 8AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GEORGE ENG
SUPERVISORY PATENT EXAMINER

Examiner: Phan, Huy Q.

AU: 2617

Date: 09/14/2006